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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,202	03/19/2004	Kevin M. Daniel	3691-618	6513

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EXAMINER

STRIMBU, GREGORY J

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 03/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/804,202	Applicant(s) DANIEL ET AL.	
	Examiner Gregory J. Strimbu	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 February 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/14/05</u> . | 6) <input type="checkbox"/> Other: _____ |

Drawings

The drawing correction filed July 21, 2005 and February 24, 2006 have been approved.

Claim Rejections - 35 USC § 112

Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such as "so as to contact the sliding window panel and cover first and second gaps" on lines 10-11 of claim 1 render the claims indefinite because it is unclear how the bulb seal can cover the gaps when the sliding window panel is in the open position. Recitations such as "and/or" on line 26 of claim 5 render the claims indefinite because it is unclear if the applicant is setting forth apertures and cutouts or if the applicant is setting forth apertures or cutouts.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wenner et al. '191 in view of Kelly. Wenner et al. '191 disclose a flush-closing multi-

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panel window assembly for a vehicle, the flush-closing multi-panel window assembly comprising: first 26 and second 32 fixed window panels, a sliding window panel 60 that is provided between the first and second fixed window panels when the sliding window panel is in a closed position, the sliding window being flush with the first and second window panels when in the closed position, first 22 and second 24 appliques located above and below the sliding window panel when the sliding window panel is in the closed position, and wherein at least one of the first and second appliques includes a main body portion 40 comprising a first polymer based material and an abutting portion 18 comprising a second polymer based material, wherein the abutting portion of the applique is located at an edge of the applique (not numbered, but shown in figure 5 as the upper right hand corner of the applique) which abuts a corresponding peripheral edge 52 of at least one of the fixed window panels 32, wherein the abutting portion of the applique is coplanar with the fixed window panel that the abutting portion abuts. Wenner et al. '191 is silent concerning the respective hardness of the first and second polymer based materials.

However, Kelly discloses an applique 22 comprising a main body portion 32 comprising a first polymer based material and an abutting portion 34 comprising a second polymer based material that is softer than the first polymer based material.

It would have been obvious to one of ordinary skill in the art to provide the applique of Wenner et al. '191 with various hardness, as taught by Kelly, to increase the sealing ability of the applique without sacrificing the strength of the applique.

It should be noted that the first and second window fixed panels, as disclosed by Wenner et al. '191, include the seals 86 and 88 as shown in figure 7. Therefore, the sliding window panel 60 is flush with the first and second fixed window panels 26 and 32 since the sliding window panel 60 engages the seals 86 and 88 as shown in figure 7.

Response to Arguments

Applicant's arguments filed February 24, 2006 have been fully considered but they are not persuasive.

With respect to the applicant's comments concerning Wenner et al. '191, the examiner respectfully disagrees. In figure 5 of Wenner et al. '191, a portion of the distal end of the abutting portion 18 overlaps the top edge 52 of the fixed panel 32. Therefore, the abutting portion 18 is coplanar with the fixed window panel 32 which the abutting portion abuts.

Allowable Subject Matter

Claims 1-14 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

The following is a statement of reasons for the indication of allowable subject matter: the prior art of record, absent applicant's own disclosure, fails to teach the entire combination of elements set forth in the claimed invention. Specifically, the prior art of record fails to teach a flush closing multi-panel window assembly comprising a bulb seal supported by at least the seal carrier, wherein the injection molded bulb seal

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extends around an entire periphery of the sliding window panel so as to contact the sliding window panel and cover first and second gaps adjacent the periphery of the sliding window panel, the first gap being covered by the bulb seal being defined by and located between the sliding window panel and the first fixed window panel, and the second gap being covered by the bulb seal being defined by and located between the sliding window panel and the second fixed window panels and wherein the seal carrier and the bulb seal are made of different materials and are not integrally formed with one another. See claim 1, lines 9-17. Additionally, the prior art of record fails to teach an injection molded bulb seal supported by at least the seal carrier, wherein the injection molded bulb seal extends around an entire periphery of the sliding window panel so as to contact the sliding window panel and cover first and second gaps adjacent the periphery of the sliding window panel, the first gap being covered by the bulb seal being defined by and located between the sliding window panel and the first fixed window panel, and the second gap being covered by the bulb seal being defined by and located between the sliding window panel and the second fixed window panel; an upper frame member and a lower frame member, each of the upper and lower frame members being attached to the first and second fixed window panels; and wherein each of the upper and lower frame members includes a track defined therein to allow for sliding of the sliding window panel; a latch assembly including first and second spring biased pins adapted to slide in said tracks of the upper and lower frame members, respectively, during opening and closing of the sliding window panel wherein the latch assembly further includes first and second selectively actuatable members adapted to be moved

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toward one another so that when the first and second selectively actuatable members are moved toward one another the first and second pins are caused to exit first and second apertures or cut-outs defined in the upper and lower frame members, respectively, and the sliding window panel can thereafter be slid laterally in order to open the sliding window panel; and wherein the first and second pins are at least partially located in respective apertures defined in the seal carrier. See lines 9-30 of claim 5.

Conclusion

THIS ACTION IS NOT MADE FINAL.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 571-272-6836. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Gregory J. Strimbu". The signature is fluid and cursive, with a long horizontal stroke extending from the end.

Gregory J. Strimbu
Primary Examiner
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March 20, 2006